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6 IN THE UNITED STATES DISTRICT COURT
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8 FOR THE NORTHERN DISTRICT OF CALIFORNIA
9

10 UNITED STATES OF AMERICA,

No. CR 16-00440 WHA

11 Plaintiff,

12 v.

**AMENDED ORDER
RE TUESDAY'S
COMPETENCY HEARING**

13 YEVGENIY ALEKSANDROVICH
14 NIKULIN,

15 Defendant.
16 _____/

17 A criminal defendant has the right to be present at each stage of the proceedings.
18 Defendant Yevgeniy Nikulin has already refused to appear in court once. A September 4 order
19 subsequently granted defendant's motion for a hearing to determine his competency to stand
20 trial. Defendant now refuses to cooperate in his competency evaluation (Dkt. Nos. 60, 63).

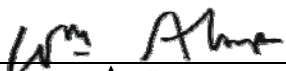
21 Defendant does not have a right to obstruct the orderly prosecution of this case. The
22 undersigned hereby directs the United States Marshals Service and the Alameda County
23 Sheriff's Office to bring defendant to court on Tuesday, October 9 (forcibly or otherwise)
24 unless defendant's counsel presents medical evidence beforehand that defendant's transport to
25 the courthouse will endanger his health.

26 In similar circumstances, a defendant's refusal to attend proceedings has been deemed a
27 voluntary waiver of his right to be present. *See, e.g., United States v. George*, 127 F.3d 1107
28 (9th Cir. 1997). Nevertheless, before resorting to waiver, the undersigned directs the Marshals

1 Service and Alameda County Sheriff's Office to bring defendant to court. Dr. Alexander
2 Grinberg shall also personally appear at the October 9 hearing.

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4 **IT IS SO ORDERED.**

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6 Dated: October 5, 2018.



7 WILLIAM ALSUP
8 UNITED STATES DISTRICT JUDGE
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